REMARKS:

In the outstanding final Office Action, claims 1-17 were rejected. Claims 1, 5, 6 and 14-16 have been amended, and new claims 18 and 19 have been added. Thus, claims 1-19 are pending and under consideration. No new matter has been added. The rejections are traversed below.

REJECTION UNDER 35 U.S.C. §102(e):

At item 4 of the final outstanding Office Action, claims 1-7, 10, 13-14 and 16-17 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,553,468 ('468).

'468 discusses a storage method for controlling storage of pre-stored instructional information such that the instructional information is progressively overwritten based on use of the instructional information.

The present invention is directed to a method and device for automatically transferring data based on a determination of whether a predetermined value storage capacity has been reached and based on attribute information of the data.

The Examiner maintains the comparison of the '468 method that is limited to controlling storage of pre-stored instructional based on use of the same with the present invention. In '468, a digital device stores a complete set of instructional information related to setting up and using the device where a fraction of the storage area remains available for user data (see, column 4, lines 27-30 of '468). The '468 method determines a user's familiarly with the device based on the user's use of the pre-stored instructional information, and determines what pre-stored instructional information is overwritten and when to provide more user storage space (see, column 4, lines 35-37 and lines 62-64 of '468). For example, instructional information for describing how to use a video camera is erased after a user uses the video camera for 10 minutes (see, column 5, lines 17-19 of '468). This means that the '468 method is limited to overwriting pre-stored instructional information based on use of the same by a user to provide user storage space.

The present invention discloses a storage service method and device for storing data including user data based on a determination of whether a predetermined value storage capacity has been reached and based on attribute information of the data. As recited in each of amended independent claims 1, 5, 6, 14 and 16, the present invention includes, "monitoring a storage capacity of a data accumulation unit of a user terminal device" for "transferring data ...

7

to a storage service providing device through a network such that the free capacity of the data accumulation unit cannot be smaller than a predetermined value" where "attribute information is used for determining the transfer of the data". This means that the present invention is not limited to transferring pre-stored instructional information based on use of the same. For example, the present invention allows transfers of the data based on attribute information such as file extensions of the data files, metadata, etc. The '468 method does not teach or suggest transferring data such that storage capacity is maintained at a certain level and "where attribute information is used for determining the transfer of the data".

It is submitted that the '468 method does not teach or suggest each and every feature of the present invention, thus the independent claims of the present invention are patentable over '468.

For at least the above-mentioned reasons, claims depending from independent claims 1, 5, 6, 14 and 16 are patentably distinguishable over '468. The dependent claims are also independently patentable. For example, as recited in claim 4, "policy information defining a process of data is added to the data" such that when the data is transferred, "the data to be transferred is selected according to the policy information". This enables the present invention to determine transfer of data that a user subsequently stores based on defined policy information such as, priority order for ranking user data based on file extensions thereof. The '468 method does not teach or suggest transferring data such that a predetermined value of a storage capacity is maintained where "attribute information of the data is used for determining the transfer of the data" and where "the data to be transferred is selected according to the policy information".

Therefore, withdrawal of the rejection is respectfully requested.

REJECTION UNDER 35 U.S.C. § 103(a):

At item 6 of the outstanding Office Action, claims 8-9, 12 and 15 are rejected under 35 U.S.C. §103(a) as being unpatentable over '468 as applied to claims 6 and 14 above, and further in view of well known features of which Official Notice is hereby taken.

The patentably distinguishing features of independent claims 6 and 14 are hereby incorporated to address the rejections of claims 8-9, 12 and 15, which depend from claims 6 and 14.

While "official notice" may be relied upon, as noted in MPEP §2144.03, these

8

circumstances should be rare when an application is under final rejection or action under 37 CFR §1.113. Official Notice unsupported by documentary evidence should only be taken by the Examiner where the facts asserted to be well known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known and only when such facts are of notorious character and serve only to "fill in the gaps" which might exist in the evidentiary showing made by the Examiner to support a particular ground of rejection. The Applicants indicate that the Examiner did not present explicit basis on which the Examiner relied to allow the applicant a proper opportunity to challenge that assertion.

Further, "To support the conclusion that the claimed combination is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed combination. It is to be noted that simplicity and hindsight are not proper criteria for resolving the issue of obviousness." Ex Parte Clapp, 227 USPQ 972, 973 (B.P.A.I. 1985).

Therefore, it is respectfully submitted that a prima facie case of obviousness has not been established. In re Fritch, 23 U.S.P.Q. 2d 1780, 1783 (Fed. Cir. 1992). According to In re Fritch, the Examiner "… can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references." The '468 method is limited to controlling storage of pre-stored instructional information such that the instructional information is progressively overwritten based on use of the instructional information, and explicit basis on for the Official Notice has not been provided.

Thus, withdrawal of the rejection is respectfully requested.

NEW CLAIMS:

New claims 18 and 19 are added to emphasize an aspect of the present invention including "automatically transferring the user editable data to a storage service providing device through a network when attribute information of the user editable data changes so that the storage capacity of the data accumulation unit is maintained at a predetermined value" (claim 18) and "automatically transferring the data to a storage service providing device through a network upon determining that the data stored in the user terminal device matches the policy information and attribute information" (claim 19).

The '468 method does not teach or suggest, "user editable data" being transferred when "attribute information" of the same changes and/or when "the data stored in the user terminal

9

device matches the policy information and attribute information".

Thus, claims 18 and 19 are allowable in light of the cited references.

CONCLUSION:

In accordance with the foregoing, claims 1, 5, 6 and 14-16 have been amended. Claims 18 and 19 have been added. Thus, claims 1-19 are pending and under consideration.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: ___11/23/4___   By: _____
                                J. Randall Beckers
                                Registration No. 30,358

1201 New York Avenue, NW, Suite 700
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501